**FEE TRANSMITTAL FOR FY 2005**

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known:

Application No. 10/038,142
 Filing Date October 22, 2001
 First Named Inventor Tabatabai, et al.
 Examiner Name Greg C. Bengzon
 Art Unit 2144
 Attorney Docket No. 080398.P433

Applicant claims small entity status. See 37 CFR 1.27.

METHOD OF PAYMENT (check all that apply)
☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify)
Deposit AccountDeposit Account Number : 02-2666

Deposit Account Name: _____

☒ The Director is Authorized to do the following with respect to the above-identified Deposit Account:

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☒ Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>		<u>Fees Paid (\$)</u>
<u>Code</u>	<u>Fee (\$)</u>	<u>Code</u>	<u>Fee (\$)</u>			
1011	300	2011	150	Utility application filing fee		
1111	500	2111	250	Utility search fee	1,000/500	
1311	200	2311	100	Utility examination fee		
1012	200	2012	100	Design application filing fee		
1112	100	2112	50	Design search fee	430/215	
1312	130	2312	65	Design examination fee		
1013	200	2013	100	Plant filing fee		
1113	300	2113	150	Plant search fee	660/330	
1313	160	2313	80	Plant examination fee		
1004	300	2004	150	Reissue filing fee		
1114	500	2114	250	Reissue search fee	1,400/700	
1314	600	2314	300	Reissue examination fee		
1005	200	2005	100	Provisional application filing fee		
SUBTOTAL (1)						\$ 0.00

2. EXCESS CLAIM FEES

	<u>Extra Claims</u>	<u>Fee from below</u>	<u>Fees Paid (\$)</u>
Total Claims _____ - 20 or HP = _____		X <u>\$50.00</u>	= _____
HP = highest number of total claims paid for, if greater than 20			
Independent Claims _____ - 3 or HP = _____		X <u>\$200.00</u>	= _____
HP = highest number of independent claims paid for, if greater than 3			
Multiple Dependent Claims _____			= _____

<u>Large Entity</u>		<u>Small Entity</u>		
Fee	Fee	Fee	Fee	
Code	(\$)	Code	(\$)	<u>Fee Description</u>
1202	50	2202	25	Each claim over 20
1201	200	2201	100	Each independent claim over 3
1203	360	2203	180	Multiple dependent claims, if not paid
1204	200	2204	100	Reissue: each claim over 20 and more than in the original patent
1205	50	2205	25	Reissue: each independent claim more than in the original patent

SUBTOTAL (2) \$ _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each add'l 50 or fraction thereof</u>	<u>Fee from below</u>	<u>Fees paid (\$)</u>
_____	- 100 = _____	/ 50 = _____ (round up to whole number)	X <u>\$250.00</u>	_____

<u>Large Entity</u>		<u>Small Entity</u>		
Fee	Fee	Fee	Fee	
Code	(\$)	Code	(\$)	<u>Fee Description: Application size fee for each additional group of 50 sheets beyond initial 100 sheets (count spec & drawings except sequences & program listings):</u>
1081	250	2081	125	Utility
1082	250	2082	125	Design
1083	250	2083	125	Plant
1084	250	2084	125	Reissue

SUBTOTAL (3) \$ 0.00

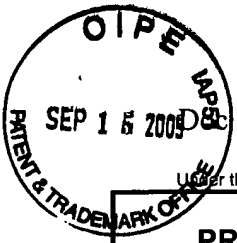
FEE CALCULATION (continued)**4. OTHER FEE(S)**

				Fees Paid (\$)	
Non-English Specification, \$130 fee (no small entity discount)					
Large Entity		Small Entity			
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1813	8,800	1813	8,800	Request for inter parties reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1100	2503	550	Plant issue fee	
1462	400	1462	400	Petitions to the Commissioner (CFR 1.17(f) Group I)	
1463	200	1463	200	Petitions to the Commissioner (CFR 1.17(g) Group II)	
1464	130	1464	130	Petitions to the Commissioner (CFR 1.17(h) Group III)	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	For filing a submission after final rejection (see 37 CFR 1.129(a))	
1814	130	2814	65	Statutory Disclaimer	
1810	790	2810	395	For each additional invention to be examined (see 37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
1504	300	1504	300	Publication fee for early, voluntary, or normal pub.	
1505	300	1505	300	Publication fee for republication	
1803	130	1803	130	Request for voluntary publication or republication	
1808	130	1808	130	Processing fee under 37 CFR 1.17(i) (except provisionals)	
1454	1,370	1454	1,370	Acceptance of unintentionally delayed claim for priority	
Other fee (specify) <u>Pre-Appeal Brief Request For Review</u>					<u>\$500.00</u>
Other fee (specify) _____					
				SUBTOTAL (4)	\$ 500.00

*Reduced by Basic Filing Fee Paid

SUBMITTED BY:Typed or Printed Name: Sheryl Sue HollowaySignature: Date: SEPT. 13, 2005Reg. Number: 37.850Telephone Number: 408-720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450



Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

80398.P433

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on

9-13-05

Signature

Typed or printed name

Carla Anysia Nascimento

Application Number

20/038,142

Filed

October 22, 2001

First Named Inventor

Tabatabai, et al.

Art Unit

2144

Examiner

Bengzon

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 37,850

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

Sheryl Sue Holloway

Typed or printed name

408-720-8300 x309

Telephone number

SEPT. 13, 2005

Date

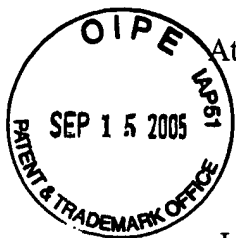
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Atty Docket No. 080398.P433

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Examiner:	Bengzon, Greg C.
)	
Tabatabai, et al.) Art Unit:	2144
)	
Application No. 10/038,142)	
)	
Filed: October 22, 2001)	
)	
For: DELIVERY OF MULTIMEDIA)	
DESCRIPTORS USING)	
ACCESS UNITS)	
_____)	

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the final Office Action mailed June 13, 2005, Applicant respectfully requests review of the Examiner's rejections of claims 1-90 over U.S. Patent No. 6,751,623 to Basso et al.

Rejections To Be Reviewed

Rejections under 35 U.S.C. § 102(e)

Claims 1-5, 7-35, 37-65 and 67-90 stand rejected over Basso.

Rejections under 35 U.S.C. § 103

Dependent claims 6, 36 and 66 stand rejected over Basso in combination with U.S. Patent 6,549,922 to Srivastava et al. and the W3C press release of November 16, 1999.

Summary of Claimed Subject Matter

Applicant's invention as claimed uses access units to update a multimedia description that comprises multiple fragments. Each access unit contains a fragment update, which in turn contains a fragment update command. The access unit is encoded into a data stream for transmission. (Figures 2-4 and ¶35-39 of Applicant's Specification)

Summary of Prosecution History

Basso discloses access units that contain audio-visual data, such as a video frame or an audio sample. Basso further discloses that multiple access units are combined into segments to represent the audio-visual data.

Applicant's response to the first Office Action on May 10, 2005 pointed out that Applicant's claimed access units are used to update multimedia descriptions, i.e., metadata for multimedia content, and that Basso contains no disclosure that teaches or suggests his access units can be used to update metadata.

In the final Office Action, the Examiner rebutted Applicant's argument by citing column 25, lines 35-50, and column 4, lines 55-56 of Basso (not repeated here for sake of brevity). Although Basso does not explicitly disclose the use of access units to update metadata, column 25, lines 35-50 "[forces the Examiner] to conclude that Basso is referring to manipulating multimedia data other than the actual media data itself," and column 4, lines 55-56 "[forces the Examiner] to conclude that Basso uses access units to update multimedia descriptions. Although not stated as such, the Examiner is asserting Basso inherently teaches the use of access units to update metadata.

Argument

Inherency cannot be established by probabilities or possibilities. The Examiner is required to provide technical or factual reasoning that the asserted inherent characteristics necessarily flow from the prior art disclosure. Here, the Examiner's "forced conclusions" do not rise to the standard required to support an inherency argument.

Conclusion

Because there are clear errors in the Examiner's rejections, Applicant respectfully requests the Pre-Appeal Conference direct the Examiner to enter an allowance for claims 1-90.

Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: _____, 2005

Sheryl S. Holloway
Attorney for Applicant
Registration No. 37,850

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300 x309